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NO. 80-2147

In The

Supreme Court of the United States

OCTOBER TERM, 1980

STATE OF CONNECTICUT; DEPARTMENT OF ADMINISTRATIVE SERVICES OF THE STATE OF CONNECTICUT; DEPARTMENT OF INCOME MAINTENANCE OF THE STATE OF CONNECTICUT; ELISHA C. FREEDMAN, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; AND EDWARD W. MAHER, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY,

Petitioners,

V.

WINNIE TEAL, DAVID MALSTROM, MARIAN COSTA, EDITH LATNEY, ROSE WALKER, GRACIE CLACK, JENNIE PICK AND LINDA BROOKS,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

JOINT APPENDIX

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Petition for Certiorari Filed on June 18, 1981
Certiorari Granted on October 5, 1981

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NOTE: The following documents are printed in the Appendix to the Petition for a Writ of Certiorari and appear therein at the pages stated below.	
5. Judgment of the U.S. Court of Appeals for the Second Circuit	1a
6. Opinion of the U.S. Court of Appeals for the Second Circuit	2a
7. Judgment of the U.S. District Court for the District of Connecticut	17a
8. Memorandum of Decision of the U.S. District Court for the District of Connecticut	18a

RELEVANT DOCKET ENTRIES

April 6, 1979	- Complaint filed at Bridgeport
May 16. 1979	- Calendar re: Motion for Preliminary Injunction marked OVER without date. Daly, J.
May 5, 1980	- Amended Complaint filed
May 13, 1980	- Answer filed by defendants
May 27, 1980	- Hearing held before Daly, J.
May 28, 1980	- Court trial continues; both sides rest; decision reserved
July 31, 1980	- Memorandum of decision filed and entered
August 5, 1980	- Judgment for the defendants filed and entered
August 8, 1980	- Plaintiffs' Notice of Appeal from judgment to the U.S. Court of Appeals for the Second Circuit filed
December 22, 1980	- Argument before Court of Appeals
March 26, 1981	- Opinion of Court of Appeals filed and entered
March 26, 1981	- Judgment of Court of Appeals reversing the judgment of the District Court and remanding for further proceedings filed and entered

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

WINNIE TEAL, DAVID MALSTROM, MARION COSTA, EDITH LATNEY, ROSE WALKER, GRACIE CLACK, JENNIE PICK AND LINDA BROOKS	)	
Plaintiffs	)	
VS.	)	CIVIL ACTION NO. B - 79-128
STATE OF CONNECTICUT DEPARTMENT OF ADMINISTRATIVE SERVICES OF THE STATE OF CONNECTICUT: DEPARTMENT OF INCOME MAINTENANCE OF THE STATE OF CONNECTICUT: ELISHA C. FREEDMAN, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY: AND EDWARD W. MAHER, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY,	)	APRIL 24, 1980
Defendants	)	

AMENDED COMPLAINT

PRELIMINARY STATEMENT

1. The plaintiffs bring this action for equitable relief. Plaintiffs Winnie Teal, Rose Walker, Edith Latney and Gracie Clack, seek redress for injuries suffered because the defendants are partaking in practices which discriminate against the plaintiffs, Winnie Teal, Gracie Clack, Rose Walker and Edith Latney, on the basis of race and color in the opportunities for and the terms and conditions of employment, including pay and promotion. The plaintiffs, David Malstrom, Marian Costa, Jennie Pick and Linda Brooks, seek redress for injuries suffered because the

defendants' practices have denied to them equal protection of the laws.

JURISDICTION

2. This action is brought pursuant to Title 42 U.S.C. Section 1981 and 1983 and Title 42 U.S.C. 2000e et seq. Jurisdiction is conferred on this Court by Title 28 U.S.C., Section 1343(3) and (4) and by Title 42 U.S.C., Section 2000e-5(f).

PARTIES

3. Plaintiff, Winnie Teal, is a black citizen of the United States and a resident of the City of Stamford, State of Connecticut, and is employed in the Department of Income Maintenance of the State of Connecticut.

4. Plaintiff, David Malstrom, is a citizen of the United States and a resident of the City of Hartford, State of Connecticut, and is employed in the Department of Income Maintenance of the State of Connecticut.

5. Plaintiff, Marian Costa, is a citizen of the United States and a resident of the Town of Cromwell, State of Connecticut, and is employed in the Department of Maintenance of the State of Connecticut.

6. Plaintiff, Rose Walker, is a black citizen of the United States and a resident of the Town of Bloomfield, State of Connecticut, and is employed in the Department of Income Maintenance.

7. Plaintiff, Edith Latney, is a black citizen of the United States and a resident of the City of Hartford, State of Connecticut, and is employed in the Department of Income Maintenance.

8. Plaintiff, Gracie Clack, is a black citizen of the United States and a resident of the City of Bridgeport, State of Connec-

ticut, and is employed in the Department of Income Maintenance.

9. Plaintiff, Jennie Pick, is a citizen of the United States and a resident of New Britain, Connecticut and is employed in the Department of Income Maintenance.

10. Plaintiff, Linda Brooks, is a citizen of the United States and a resident of East Hartford, Connecticut and is employed in the Department of Income Maintenance.

11. Defendant, State of Connecticut, is one of the states of the United States.

12. Defendant, Department of Administrative Services of the State of Connecticut, is an agency of the State of Connecticut, charged with the responsibility of and administering the process of filling employment positions within the government of the State of Connecticut.

13. Defendant, Department of Income Maintenance, is an agency of the State of Connecticut for whom the plaintiffs are employed.

14. Defendant, Elisha C. Freedman, is a citizen of the United States and a resident of the State of Connecticut, and is the Commissioner of the Department of Administrative Services.

15. Defendant, Edward W. Maher, is a citizen of the United States and a resident of the State of Connecticut, and is the Commissioner of the Department of Income Maintenance.

16. All defendant officials of the State of Connecticut are sued both individually and in their official capacity.

FACTS GIVING RISE TO CAUSES OF ACTION OF PLAINTIFFS WINNIE TEAL, ROSE WALKER, GRACIE CLACK AND EDITH LATNEY

17. On December 2, 1978, plaintiffs, Winnie Teal, Gracie Clack, Rose Walker and Edith Latney took an examination given by the Department of Administrative Services of the State of Connecticut for promotion to the position of Eligibility Technician Supervisor in the Department of Income Maintenance.

18. The examination results were made known on or about March 15, 1979.

19. Said examination discriminated against blacks in that a disproportionate number of black candidates were excluded in the promotional process as a result of said examination, and in that the examination did not reflect adequately the candidates' ability to perform the jobs in question.

20. Said examination has not been properly validated.

21. The defendants knew or should have known that said examination, would discriminatorily exclude black applicants for promotion.

22. Although Plaintiffs, Winnie Teal, Gracie Clack, Rose Walker and Edith Latney, have been employed by the Department of Income Maintenance for a period of up to 12 years and during that period of time have been assigned to jobs which required as much training and ability as the job performed by an Eligibility Technician Supervisor, and in fact have been successfully serving for over a year in that position, they were eliminated from consideration for permanent promotion to the job of Eligibility Technician Supervisor based on a test which did not predict accurately their performance on that job. In addition, the plaintiff, Winnie Teal, has in the past successfully competed on a test for this position, although she was not given permanent status.

23. As a result of the defendants' actions the plaintiffs will suffer the embarrassment and loss of dignity of being removed from the supervisory positions they are now holding, with a loss in their individual pride and monetarily in a reduction in pay and other benefits, including pension rights. Such injury is both immediate and irreparable, and is scheduled to occur on April 19, 1979.

FACTS GIVING RISE TO THE CAUSES OF ACTION OF THE PLAINTIFFS, DAVID MALSTROM, MARIAN COSTA, JENNIE PICK AND LINDA BROOKS

24. On December 2, 1978, plaintiffs, David Malstrom, Marian Costa, Jennie Pick and Linda Brooks, took an examination given by the Department of Administrative Services of the State of Connecticut for promotion to the position of Eligibility Technician Supervisor in the Department of Income Maintenance.

25. The examination results were made known on or about March 15, 1979.

26. The examination given on December 2, 1978, failed to test the qualifications, fitness and ability of the persons tested to perform the duties of the position of Eligibility Technician Supervisor.

27. Said examination has not been properly validated.

28. Although each of the plaintiffs have been serving successfully in the position of Welfare Technician Supervisor for over a year, they have been eliminated from consideration for permanent promotion to the position of Eligibility Technician Supervisor based on a test which did not predict accurately their performance in that position.

29. As a result of the defendants' actions the plaintiffs will suffer the embarrassment and loss of dignity by being removed from the supervisory positions they are now holding, with a loss

in their individual pride, and a loss monetarily by a reduction in pay and other benefits, including pension rights. Such injury is both immediate and irreparable and is scheduled to occur on April 19, 1979.

30. The actions of the defendants about which plaintiffs complain herein took place under color of state law.

31. The policies and practices alleged herein constitute violations of plaintiffs' rights, privileges and immunities secured by the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution and by Title 42 U.S.C. Section 1981 and 1983.

32. Plaintiffs Winnie Teal, Edith Latney, Gracie Clack and Rose Walker have fulfilled the jurisdictional preprequisites to suit under Title VII of the Civil Rights Act of 1964, as amended. They filed complaints with the Equal Employment Opportunity Commission, and on September 20, 1979, the United States Department of Justice issued Notices of Right to Sue within 90 days.

CAUSES OF ACTION AS TO PLAINTIFFS, GRACIE CLACK, ROSE WALKER, EDITH LATNEY AND WINNIE TEAL

33. The policies and practices alleged herein constitute violations of the plaintiffs' rights to equal employment opportunity guaranteed by Title 42 U.S.C. Section 2000e et seq.

34. The conduct of the defendants violates plaintiff Winnie Teal's rights under Title VII of the Civil Rights Act of 1964, and deprives her of equal employment opportunity in that the defendants have terminated her employment in retaliation for her filing a complaint with the Equal Employment Opportunity Commission.

CAUSES OF ACTION AS TO PLAINTIFFS, DAVID MALSTROM, MARIAN COSTA, GRACIE CLACK, ROSE WALKER, EDITH LATNEY, WINNIE TEAL, JENNIE PICK AND LINDA BROOKS

35. The practices of the defendants complained of arbitrarily and capriciously deprive plaintiffs, David Malstrom, Marian Costa, Gracie Clack, Rose Walker, Edith Latney, Winnie Teal, Jennie Pick, and Linda Brooks, the pay and opportunities for promotion which are available to those who have passed this non-job related examination. Accordingly, these practices violate Title 42 U.S.C. Section 1983, and the Due Process Clauses of the Fourteenth Amendment to the United States Constitution.

36. The practices of the defendants complained of violate the provisions of Section 5-219 of the Connecticut General Statutes, Revision of 1958, as amended.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray that the Court grant:

(a) Preliminary and permanent injunctions enjoining defendants, their agents and employees from denying plaintiffs employment and/or promotional opportunities on the bases of race and/or color, and further enjoining defendants, their agents and employees from discriminating against plaintiffs in terms and conditions of employment;

(b) Preliminary and permanent injunctions enjoining defendants, their agents and employees from using the results of the examination given on December 2, 1978, for making appointments to the position of Eligibility Technician Supervisor;

(c) Preliminary and permanent injunction enjoining defendants, their agents and employees from removing the plaintiffs from their positions as Eligibility Technician Supervisor;

(d) An order requiring the defendants to conduct another examination, which is not discriminatory, and which tests performance on the job, for the position of Eligibility Technician Supervisor;

(e) Costs;

(f) Attorneys' fees;

(g) Such other and further relief as the Court deems appropriate.

Dated at Bridgeport, Connecticut, this 24th day of April, 1980.

/s/Thomas W. Bucci
Thomas W. Bucci
Attorney for Plaintiffs
955 Main Street
P.O. Box 1438
Bridgeport, Connecticut 06601

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

WINNIE TEAL, DAVID MALSTROM, MARION COSTA, EDITH LETNEY, ROSE WALKER, GRACIE CLACK JENNIE PICK and LINDA BROOKS	)	
Plaintiffs	)	
VS.	)	CIVIL ACTION NO. B-79-128
STATE OF CONNECTICUT DEPARTMENT OF ADMINISTRATIVE SERVICES OF THE STATE OF CONNECTICUT: DEPARTMENT OF INCOME MAINTENANCE OF THE STATE OF CONNECTICUT: ELISHA C. FREEDMAN, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY: AND EDWARD W. MAHER, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY,	)	May 8, 1980
Defendants	)	

ANSWER

1. Paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 24 and 25 of the plaintiff's complaint are admitted.

2. Paragraphs 1, 2, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 35 and 36 of the plaintiff's complaint are denied.

DEFENDANTS

BY: CARL R. AJELLO
ATTORNEY GENERAL

/s/Sidney D. Giber
SIDNEY D. GIBER
Assistant Attorney General
P.O. Box 120
Hartford, Connecticut

I hereby certify that a
copy of the above was
mailed to all counsel
of record on May 8, 1980

/s/Sidney D. Giber
Sidney D. Giber
Assistant Attorney General

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

NOTICE OF APPEAL	CIVIL NO. B-79-128

PLAINTIFFS,
WINNIE TEAL, DAVID MALMSTROM, MARION COSTA, EDITH LATNEY, ROSE WALKER, GRACIE CLACK, JENNIE PICK and LINDA BROOKS

VS

DEFENDANTS,
STATE OF CONNECTICUT: DEPARTMENT OF ADMINISTRATIVE SERVICES of the State of Connecticut; DEPARTMENT OF INCOME MAINTENANCE of the State of Connecticut; ELISHA C. FREEDMAN, Individually and in his official capacity, and EDWARD W. MAHER, Individually and in his official capacity

Notice is hereby given that Winnie Teal, David Malmstrom, Marion Costa, Edith Latney, Rose Walker, Gracie Clack and Jennie Pick, the foregoing named plaintiffs, hereby appeal to the United States Court of Appeals for the Second Circuit from the Final Judgment of the Court entered in this action on the 5th day of August, 1980.

THE NAMED PLAINTIFFS

By /s/Thomas W. Bucci
Thomas W. Bucci
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August 8, 1980